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Instruction Reinstating Suspended Organic Operations

1. Purpose

USDA

This instruction provides procedures to be followed by certifying agents accredited by the U.S. Department of Agriculture (USDA) National Organic Program (NOP) and suspended organic producers and handlers when requesting reinstatement of certification. It further provides procedures and decision criteria for use by NOP officials when considering requests for reinstatement.

2. Scope

These procedures apply to all USDA NOP accredited certifying agents and producers and handlers subject to the USDA organic regulations, 7 CFR § 205.

3. Background

Pursuant to § 205.662(f) of the USDA organic regulations, the NOP Deputy Administrator has been delegated the responsibility to act on behalf of the Secretary with regards to reviewing and approving requests for reinstatement of certified organic operations.

4. Policy

Once an organic producer or handler's organic certification has been suspended for any reason, including nonpayment of fees, eligibility for certification must be reinstated by the NOP. Certifying agents cannot reinstate certification of any producer or handler without NOP review and written approval.

Suspended operations must submit a written request for reinstatement as described in the regulations and as explained in the Procedure, Section 5.1, of this instruction. The written request may be submitted directly to the NOP Deputy Administrator or through the operation's certifying agent.

Requests for reinstatement must be supported by documented objective evidence maintained by the operation's certifying agent. Certifying agents must ensure all requirements for certification are being met and that the suspended operation is capable of remaining in full compliance before submitting any documents supporting reinstatement to the NOP, as described in the Procedures, Section 5.2. The NOP will not approve reinstatement requests for operations with outstanding noncompliances.

NOP will consider reinstatement when it has received a written request for reinstatement from the suspended operation, a statement of NOP compliance (see Exhibit B), and documented objective evidence as described in the Procedure, Section 5.2.5, from the operation's certifying agent.

5. Procedure

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5.1 **Producers and Handlers with Suspended Organic Certifications**

In order to achieve reinstatement, organic producers and handlers who have had their organic certification suspended must:

- **5.1.1** Correct all noncompliances to the USDA organic regulations. This includes not only the reasons stated in the notice of suspension issued by the certifying agent, but any outstanding noncompliances that have been subsequently identified by the certifying agent.
- **5.1.2** Ensure that their organic systems plan (OSP) is complete, that the OSP is in compliance with the USDA organic regulations, and that the OSP is being implemented.
- **5.1.3** Contact their certifying agent and submit all documents required by the certifying agent for reinstatement. If the current certifying agent is different from the certifying agent that issued the suspension, the producer or handler must inform the current certifying agent of their suspended status and the reasons for the suspension.
- **5.1.4** Pay all fees required by the certifying agent.
- Successfully complete a full onsite inspection. The inspection should be conducted pursuant to § 5.1.5 403 (a)(1).
- Prepare a letter addressed to the Secretary of Agriculture, care of the NOP, requesting reinstatement of certification. A sample letter showing the information to be included is attached to this instruction in Exhibit A. Send the letter to:

USDA, AMS, National Organic Program 1400 Independence Avenue, SW Room 2648, STOP 0268 Washington, DC 20250

Or, AIAInBox@ams.usda.gov

Shipping services that require a telephone number may use (202) 720-3252. As an alternative, producers or handlers who have had their organic certification suspended may submit the letter addressed to the Secretary, care of the NOP, through their certifying agent. The certifying agent will forward the request to the NOP, along with the required reinstatement documents described in section 5.2.

5.1.7 Retain all documents related to the request for reinstatement for future audit by the certifying agent and the NOP.

5.2 **Accredited Certifying Agents**

Upon receipt of the operation's request for reinstatement or notification that such a request has been sent to NOP, the certifying agent will:

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regulations are met.

5.2.1

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Agricultural Marketing Service
National Organic Program

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Conduct a compliance review of the OSP to ensure that all provisions of the USDA organic

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- 5.2.2 Notify the producer or handler who has had their organic certification suspended of any noncompliances according to procedures described in the USDA organic regulations, §205.662(a).
- 5.2.3 Schedule a full onsite inspection to verify the operation's compliance with the USDA organic regulations, provided that the OSP is considered to be complete and in compliance with the USDA organic regulations. Onsite inspections should occur within a three month period prior to the NOP receiving the reinstatement request. Deviations from this procedure must be justified and approved by the NOP.
- **5.2.4** Prepare a signed letter to the Secretary, care of the NOP, stating that the operation requesting reinstatement has met all requirements of the USDA organic regulations. A sample letter showing the information to be included is attached to this instruction. [See Exhibit B] The letter must affirmatively state that:
 - a. The certifying agent has conducted an NOP compliance review of the client's OSP.
 - b. The review found that the client's OSP adequately addressed the noncompliance(s) which led to the suspension and is in compliance with the USDA organic regulations.
 - c. The certifying agent has conducted an onsite inspection of operation and found the operation to be in full compliance and capable of remaining in compliance with the USDA organic regulations, or, noncompliances were issued to the operation as a result of the onsite inspection findings and the operation has submitted corrective measures that are approved and determined by the certifying agent to demonstrate compliance with the USDA organic regulations.
- 5.2.5 Submit the letter (along with the operation's request for reinstatement, if appropriate), as well as the initial Notice of Noncompliance, Notice of Proposed Suspension, Notice of Suspension, and a copy of the inspection report that found the operation in full compliance (Step 4b). If the inspection report includes findings that may be noncompliant, then the certifying agent's request for reinstatement must include documented objective evidence to demonstrate the operation's full compliance with the USDA organic regulations.
- **5.2.6** Retain all documents related to the request for reinstatement for future audit by the NOP.

5.3. National Organic Program

Upon receipt of the required documentation, the NOP Accreditation and International Activities Division will complete the following steps within 30 days of receipt of the request for reinstatement:

- **5.3.1** Review the request for reinstatement along with the supporting documentation. Contact the certifying agent if questions remain regarding the request.
- **5.3.2** Approve the request if:

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- All required documents have been submitted,
- b. The documentation clearly demonstrates that the operation is in compliance with the USDA organic regulations and is capable of remaining in compliance, and;
- c. The review of documents related to the operation does not indicate that the client has an ongoing history of noncompliance which would indicate an inability or unwillingness to remain in compliance.
- 5.3.3 If the request is approved, the NOP will remove the operation from the public list of suspended operations. The NOP will issue a letter to the operation, with a copy to the certifying agent, stating that:
 - a. The operation is eligible for reinstatement by the certifying agent referenced in the request, and
 - b. The certifying agent must retain all documents related to the reinstatement for future audit by the NOP.

A sample letter is attached to this instruction in Exhibit C.

- 5.3.4 If the request is denied, issue a letter to the operation, with a copy to the certifying agent, stating the reasons for denying reinstatement.
- **5.3.5** Review all documentation related to the reinstatement at the certifying agent's next onsite audit.

6. References

USDA organic regulations (as amended to date)

7 CFR § 205.662 Noncompliance procedure for certified operations.... (f) Eligibility.

Approved on June 12, 2012

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Exhibit A: Sample Letter from Suspended Operator Requesting Reinstatement

Secretary of Agriculture c/o USDA, AMS, National Organic Program 1400 Independence Avenue SW Room 2648, STOP 0268 Washington, DC 20250

Dear Secretary Vilsack,

The purpose of this letter is to formally request reinstatement of organic certification of our [organic farm or handling facility] under the USDA National Organic Program (NOP) pursuant to §205.662(f) of the USDA organic regulations.

On [date of suspension], [name of certifying agent] suspended our certification for [briefly state reasons for suspension]. Those noncompliances have been corrected and on [date of inspection], [name of current or new certifying agent] conducted a full onsite inspection to verify our compliance with the USDA organic regulations.

We have asked [name of certifying agent] to provide you with the necessary supporting documentation. We would appreciate your prompt consideration of this request for reinstatement.

Sincerely,

/Signature/

[Name of person responsible for program], [Title] [Name of company, if any]

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Exhibit B: Sample Letter from Certifying Agent Requesting Reinstatement of Suspended **Operation**

[Date]

Secretary of Agriculture c/o USDA, AMS, National Organic Program 1400 Independence Avenue SW Room 2648, STOP 0268 Washington, DC 20250

Dear Secretary Vilsack,

The purpose of this letter is to provide the necessary statements of compliance in support of a request for reinstatement of organic certification of [name of organic operation] under the USDA National Organic Program (NOP) pursuant to 7CFR §205.662(f). [A letter to you from our client requesting reinstatement is enclosed. /(Name of client/applicant) has already submitted their request for reinstatement to the USDA.]

On [date of suspension], [name of certifying agent] suspended [name of operation] for [briefly state reasons for suspension]. Since that time, [name of operation] has worked to correct the deficiencies identified in the notice of suspension and has requested reinstatement under the NOP. In order to verify our [client's or applicant's] eligibility for certification, we have:

- 1. Reviewed the [client's or applicant's] proposed corrective actions and found that all identified noncompliances have been fully addressed;
- 2. Conducted a complete review of their organic systems plan (OSP) and found it to be in compliance with the USDA organic regulations, and
- 3. Conducted a full onsite inspection of the operation on [date of inspection] and determined that [name of operation] has fully implemented their OSP and is capable of remaining in compliance with the USDA organic regulations.

We would appreciate your prompt consideration of their request. If you have questions or other concerns regarding their eligibility for reinstatement, please contact [Name of certifying agent contact] at [phone number] or by e-mail at [email address].

Sincerely,

/Signature/

[Name of certifying agent representative], [Title] [Name of certifying agent] Enclosure

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Exhibit C: Sample Letter from NOP to Reinstated Operation

Notice of Reinstatement of Certified Operation

[Date]

[Full name of operation's contact]
[Name of operation]
[Address]
City, State, Zip]

Dear [Name of operator],

The National Organic Program (NOP) has completed its review of [Name of operation] request for reinstatement as a certified organic operation. Pursuant to 7CFR §205.662(f)(1) and based on the compliance statement provided by your accredited certifying agent, the National Organic Program, on behalf of the Secretary of Agriculture, grants [Name of operation] reinstatement as a certified organic operation. Please retain all documents relating to this reinstatement for possible future onsite auditing by NOP representatives.

Sincerely,

/Signature/

[Name of Deputy Administrator] Deputy Administrator National Organic Program

cc: [Name of Certifying Agent]
State Organic Program (If applicable)

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